



General Assembly

Substitute Bill No. 5908

February Session, 2008

* _____ HB05908HS _____ 031808 _____ *

**AN ACT CONCERNING PROCEEDINGS AND OPERATIONS OF THE
DEPARTMENT OF CHILDREN AND FAMILIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2008*) No state agency shall
2 license or enter into a contract with a person or entity to operate a
3 residential facility for persons under the supervision, care or custody
4 of such agency in a facility, institution or home previously operated by
5 a person or entity licensed by the Commissioner of Children and
6 Families pursuant to section 17a-145 of the 2008 supplement to the
7 general statutes to care for or board a child unless the department head
8 of such state agency notifies the chief executive officer of the
9 municipality in which such facility, institution or home is located and
10 the legislative body of such municipality approves such change in
11 operation.

12 Sec. 2. (NEW) (*Effective October 1, 2008*) Any contract entered into by
13 the Department of Children and Families with a person or entity for
14 the operation of a residential facility licensed pursuant to section 17a-
15 145 of the 2008 supplement to the general statutes shall contain
16 provisions requiring such person or entity to comply with any state
17 statute, regulation and local ordinance concerning the safety of
18 residents and noise levels.

19 Sec. 3. Subsection (b) of section 17a-28 of the 2008 supplement to the

20 general statutes is repealed and the following is substituted in lieu
21 thereof (*Effective October 1, 2008*):

22 (b) Notwithstanding the provisions of section 1-210 of the 2008
23 supplement to the general statutes, 1-211 or 1-213, records maintained
24 by the department shall be confidential and [shall not be disclosed.
25 Such records of any person] may only be disclosed, in whole or in part,
26 to any individual, agency, corporation or organization with the
27 consent of the person or as provided in this section. Any unauthorized
28 disclosure shall be punishable by a fine of not more than one thousand
29 dollars or imprisonment for not more than one year, or both. Any
30 employee of the department who in the ordinary course of such
31 person's employment has reasonable cause to suspect or believe that
32 another employee has engaged in the unauthorized disclosure of
33 records shall transmit all facts and information concerning such
34 unauthorized disclosure to the commissioner.

35 Sec. 4. Subdivision (1) of subsection (b) of section 4-61dd of the
36 general statutes is repealed and the following is substituted in lieu
37 thereof (*Effective October 1, 2008*):

38 (b) (1) No state officer or employee, as defined in section 4-141, no
39 quasi-public agency officer or employee, no officer or employee of a
40 large state contractor and no appointing authority shall take or
41 threaten to take any personnel action against any state or quasi-public
42 agency employee or any employee of a large state contractor in
43 retaliation for such employee's or contractor's disclosure of
44 information to (A) an employee of the Auditors of Public Accounts or
45 the Attorney General under the provisions of subsection (a) of this
46 section; (B) an employee of the state agency or quasi-public agency
47 where such state officer or employee is employed; (C) an employee of
48 a state agency pursuant to a mandated reporter statute or pursuant to
49 subsection (b) of section 17a-28 of the 2008 supplement to the general
50 statutes, as amended by this act; or (D) in the case of a large state
51 contractor, an employee of the contracting state agency concerning
52 information involving the large state contract.

53 Sec. 5. Section 46b-129 of the 2008 supplement to the general statutes
54 is repealed and the following is substituted in lieu thereof (*Effective*
55 *October 1, 2008*):

56 (a) Any selectman, town manager, or town, city or borough welfare
57 department, any probation officer, or the Commissioner of Social
58 Services, the Commissioner of Children and Families or any child-
59 caring institution or agency approved by the Commissioner of
60 Children and Families, a child or such child's representative or
61 attorney or a foster parent of a child, having information that a child or
62 youth is neglected, uncared-for or dependent, may file with the
63 Superior Court that has venue over such matter a verified petition
64 plainly stating such facts as bring the child or youth within the
65 jurisdiction of the court as neglected, uncared-for or dependent, within
66 the meaning of section 46b-120 of the 2008 supplement to the general
67 statutes, the name, date of birth, sex and residence of the child or
68 youth, the name and residence of such child's parents or guardian, and
69 praying for appropriate action by the court in conformity with the
70 provisions of this chapter. Upon the filing of such a petition, except as
71 otherwise provided in subsection (k) of section 17a-112, the court shall
72 cause a summons to be issued requiring the parent or parents or the
73 guardian of the child or youth to appear in court at the time and place
74 named, which summons shall be served not less than fourteen days
75 before the date of the hearing in the manner prescribed by section 46b-
76 128, and the court shall further give notice to the petitioner and to the
77 Commissioner of Children and Families of the time and place when
78 the petition is to be heard not less than fourteen days prior to the
79 hearing in question.

80 (b) If it appears from the specific allegations of the petition and
81 other verified affirmations of fact accompanying the petition and
82 application, or subsequent thereto, that there is reasonable cause to
83 believe that (1) the child or youth is suffering from serious physical
84 illness or serious physical injury or is in immediate physical danger
85 from the child's or youth's surroundings, and (2) that as a result of said
86 conditions, the child's or youth's safety is endangered and immediate

87 removal from such surroundings is necessary to ensure the child's or
88 youth's safety, the court shall either (A) issue an order to the parents or
89 other person having responsibility for the care of the child or youth to
90 appear at such time as the court may designate to determine whether
91 the court should vest in some suitable agency or person the child's or
92 youth's temporary care and custody pending disposition of the
93 petition, or (B) issue an order ex parte vesting [in some suitable agency
94 or person] the child's or youth's temporary care and custody with a
95 grandparent or other relative by blood or marriage, in some suitable
96 agency or with some other person found to be suitable and worthy of
97 such responsibility by the court. A preliminary hearing on any ex parte
98 custody order or order to appear issued by the court shall be held not
99 later than ten days after the issuance of such order. The service of such
100 orders may be made by any officer authorized by law to serve process,
101 or by any probation officer appointed in accordance with section 46b-
102 123, investigator from the Department of Administrative Services, state
103 or local police officer or indifferent person. Such orders shall include a
104 conspicuous notice to the respondent written in clear and simple
105 language containing at least the following information: (i) That the
106 order contains allegations that conditions in the home have
107 endangered the safety and welfare of the child or youth; (ii) that a
108 hearing will be held on the date on the form; (iii) that the hearing is the
109 opportunity to present the parents' position concerning the alleged
110 facts; (iv) that an attorney will be appointed for parents who cannot
111 afford an attorney; (v) that such parents may apply for a court-
112 appointed attorney by going in person to the court address on the form
113 and are advised to go as soon as possible in order for the attorney to
114 prepare for the hearing; and (vi) if such parents have any questions
115 concerning the case or appointment of counsel, any such parent is
116 advised to go to the court or call the clerk's office at the court as soon
117 as possible. Upon application for appointed counsel, the court shall
118 promptly determine eligibility and, if the respondent is eligible,
119 promptly appoint counsel. The expense for any temporary care and
120 custody shall be paid by the town in which such child or youth is at
121 the time residing, and such town shall be reimbursed for such expense

122 by the town found liable for the child's or youth's support, except that
123 where a state agency has filed a petition pursuant to the provisions of
124 subsection (a) of this section, the agency shall pay such expense. The
125 agency shall give primary consideration to placing the child or youth
126 in the town where such child or youth resides. The agency shall file in
127 writing with the clerk of the court the reasons for placing the child or
128 youth in a particular placement outside the town where the child or
129 youth resides. Upon issuance of an ex parte order, the court shall
130 provide to the commissioner and the parent or guardian specific steps
131 necessary for each to take to address the ex parte order for the parent
132 or guardian to retain or regain custody of the child or youth. Upon the
133 issuance of such order, or not later than sixty days after the issuance of
134 such order, the court shall make a determination whether the
135 Department of Children and Families made reasonable efforts to keep
136 the child or youth with his or her parents or guardian prior to the
137 issuance of such order and, if such efforts were not made, whether
138 such reasonable efforts were not possible, taking into consideration the
139 child's or youth's best interests, including the child's or youth's health
140 and safety.

141 (c) In any proceeding under this section, any grandparent or other
142 relative by blood or marriage of the child or youth may make a motion
143 to intervene and the court shall grant such motion except for good
144 cause shown. Upon the granting of such motion, such grandparent or
145 other relative by blood or marriage may appear by counsel or in
146 person. In any proceeding in which a grandparent or other relative by
147 blood or marriage intervenes under this section, there shall be a
148 rebuttable presumption that placement with such grandparent or
149 relative by blood or marriage is in the best interests of such child or
150 youth. This presumption may be rebutted by clear and convincing
151 evidence that such placement is not in the best interests of such child
152 or youth.

153 (d) The preliminary hearing on the order of temporary custody or
154 order to appear or the first hearing on a petition filed pursuant to
155 subsection (a) of this section shall be held in order for the court to: (1)

156 Advise the parent or guardian of the allegations contained in all
157 petitions and applications that are the subject of the hearing and the
158 parent's or guardian's right to counsel pursuant to subsection (b) of
159 section 46b-135 of the 2008 supplement to the general statutes; (2)
160 assure that an attorney, and where appropriate, a separate guardian ad
161 litem has been appointed to represent the child or youth in accordance
162 with subsection (b) of section 46b-123e of the 2008 supplement to the
163 general statutes and sections 46b-129a and 46b-136 of the 2008
164 supplement to the general statutes; (3) upon request, appoint an
165 attorney to represent the respondent when the respondent is unable to
166 afford representation, in accordance with subsection (b) of section 46b-
167 123e of the 2008 supplement to the general statutes; (4) advise the
168 parent or guardian of the right to a hearing on the petitions and
169 applications, to be held not later than ten days after the date of the
170 preliminary hearing if the hearing is pursuant to an order of temporary
171 custody or an order to show cause; (5) accept a plea regarding the truth
172 of such allegations; (6) make any interim orders, including visitation,
173 that the court determines are in the best interests of the child or youth.
174 The court, after a hearing pursuant to this subsection, shall order
175 specific steps the commissioner and the parent or guardian shall take
176 for the parent or guardian to regain or to retain custody of the child or
177 youth; (7) take steps to determine the identity of the father of the child
178 or youth, including ordering genetic testing, if necessary, and order
179 service of the petition and notice of the hearing date, if any, to be made
180 upon him; (8) if the person named as the father appears, and admits
181 that he is the father, provide him and the mother with the notices that
182 comply with section 17b-27 and provide them with the opportunity to
183 sign a paternity acknowledgment and affirmation on forms that
184 comply with section 17b-27. Such documents shall be executed and
185 filed in accordance with chapter 815y and a copy delivered to the clerk
186 of the superior court for juvenile matters; and (9) in the event that the
187 person named as a father appears and denies that he is the father of the
188 child or youth, advise him that he may have no further standing in any
189 proceeding concerning the child, and either order genetic testing to
190 determine paternity or direct him to execute a written denial of

191 paternity on a form promulgated by the Office of the Chief Court
192 Administrator. Upon execution of such a form by the putative father,
193 the court may remove him from the case and afford him no further
194 standing in the case or in any subsequent proceeding regarding the
195 child or youth until such time as paternity is established by formal
196 acknowledgment or adjudication in a court of competent jurisdiction.

197 (e) If any parent or guardian fails, after service of such order, to
198 appear at the preliminary hearing, the court may enter or sustain an
199 order of temporary custody.

200 (f) Upon request, or upon its own motion, the court shall schedule a
201 hearing on the order for temporary custody or the order to show cause
202 to be held not later than ten days after the date of the preliminary
203 hearing. Such hearing shall be held on consecutive days except for
204 compelling circumstances or at the request of the parent or guardian.

205 (g) At a contested hearing on the order for temporary custody or
206 order to appear, credible hearsay evidence regarding statements of the
207 child or youth made to a mandated reporter or to a parent may be
208 offered by the parties and admitted by the court upon a finding that
209 the statement is reliable and trustworthy and that admission of such
210 statement is reasonably necessary. A signed statement executed by a
211 mandated reporter under oath may be admitted by the court without
212 the need for the mandated reporter to appear and testify unless called
213 by a respondent or the child, provided the statement: (1) Was provided
214 at the preliminary hearing and promptly upon request to any counsel
215 appearing after the preliminary hearing; (2) reasonably describes the
216 qualifications of the reporter and the nature of his contact with the
217 child; and (3) contains only the direct observations of the reporter, and
218 statements made to the reporter that would be admissible if the
219 reporter were to testify to them in court and any opinions reasonably
220 based thereupon. If a respondent or the child gives notice at the
221 preliminary hearing that he intends to cross-examine the reporter, the
222 person filing the petition shall make the reporter available for such
223 examination at the contested hearing.

224 (h) If any parent or guardian fails, after due notice of the hearing
225 scheduled pursuant to subsection (g) of this section and without good
226 cause, to appear at the scheduled date for a contested hearing on the
227 order of temporary custody or order to appear, the court may enter or
228 sustain an order of temporary custody.

229 (i) When a petition is filed in said court for the commitment of a
230 child or youth, the Commissioner of Children and Families shall make
231 a thorough investigation of the case and shall cause to be made a
232 thorough physical and mental examination of the child or youth if
233 requested by the court. The court after hearing may also order a
234 thorough physical or mental examination, or both, of a parent or
235 guardian whose competency or ability to care for a child or youth
236 before the court is at issue. The expenses incurred in making such
237 physical and mental examinations shall be paid as costs of
238 commitment are paid.

239 (j) Upon finding and adjudging that any child or youth is uncared-
240 for, neglected or dependent, the court may commit such child or youth
241 to the Commissioner of Children and Families. Such commitment shall
242 remain in effect until further order of the court, except that such
243 commitment may be revoked or parental rights terminated at any time
244 by the court, or the court may vest such child's or youth's care and
245 personal custody with a grandparent or other relative by blood or
246 marriage of such child or youth, in any private or public agency that is
247 permitted by law to care for neglected, uncared-for or dependent
248 children or youths or with any other person or persons found to be
249 suitable and worthy of such responsibility by the court. There shall be
250 a rebuttable presumption that placement of such child or youth with a
251 grandparent or other relative by blood or marriage is in the best
252 interests of such child or youth. The court shall order specific steps that
253 the parent must take to facilitate the return of the child or youth to the
254 custody of such parent. The commissioner shall be the guardian of
255 such child or youth for the duration of the commitment, provided the
256 child or youth has not reached the age of eighteen years or, in the case
257 of a child or youth in full-time attendance in a secondary school, a

258 technical school, a college or a state-accredited job training program,
259 provided such child or youth has not reached the age of twenty-one
260 years, by consent of such youth, or until another guardian has been
261 legally appointed, and in like manner, upon such vesting of the care of
262 such child or youth, such other public or private agency or individual
263 shall be the guardian of such child or youth until such child or youth
264 has reached the age of eighteen years or, in the case of a child or youth
265 in full-time attendance in a secondary school, a technical school, a
266 college or a state-accredited job training program, until such child or
267 youth has reached the age of twenty-one years or until another
268 guardian has been legally appointed. The commissioner may place any
269 child or youth so committed to the commissioner in a suitable foster
270 home or in the home of a person related by blood to such child or
271 youth or in a licensed child-caring institution or in the care and
272 custody of any accredited, licensed or approved child-caring agency,
273 within or without the state, provided a child shall not be placed
274 outside the state except for good cause and unless the parents or
275 guardian of such child are notified in advance of such placement and
276 given an opportunity to be heard, or in a receiving home maintained
277 and operated by the Commissioner of Children and Families. In
278 placing such child or youth, the commissioner shall, if possible, select a
279 home, agency, institution or person of like religious faith to that of a
280 parent of such child or youth, if such faith is known or may be
281 ascertained by reasonable inquiry, provided such home conforms to
282 the standards of said commissioner and the commissioner shall, when
283 placing siblings, if possible, place such children together. As an
284 alternative to commitment, the court may place the child or youth in
285 the custody of the parent or guardian with protective supervision by
286 the Commissioner of Children and Families subject to conditions
287 established by the court. Upon the issuance of an order committing the
288 child or youth to the Commissioner of Children and Families, or not
289 later than sixty days after the issuance of such order, the court shall
290 determine whether the Department of Children and Families made
291 reasonable efforts to keep the child or youth with his or her parents or
292 guardian prior to the issuance of such order and, if such efforts were

293 not made, whether such reasonable efforts were not possible, taking
294 into consideration the child's or youth's best interests, including the
295 child's or youth's health and safety.

296 (k) (1) Nine months after placement of the child or youth in the care
297 and custody of the commissioner pursuant to a voluntary placement
298 agreement, or removal of a child or youth pursuant to section 17a-101g
299 or an order issued by a court of competent jurisdiction, whichever is
300 earlier, the commissioner shall file a motion for review of a
301 permanency plan. Nine months after a permanency plan has been
302 approved by the court pursuant to this subsection, the commissioner
303 shall file a motion for review of the permanency plan. Any party
304 seeking to oppose the commissioner's permanency plan shall file a
305 motion in opposition not later than thirty days after the filing of the
306 commissioner's motion for review of the permanency plan, which
307 motion shall include the reason therefor. A permanency hearing on
308 any motion for review of the permanency plan shall be held not later
309 than ninety days after the filing of such motion. The court shall hold
310 evidentiary hearings in connection with any contested motion for
311 review of the permanency plan. The commissioner shall have the
312 burden of proving that the proposed permanency plan is in the best
313 interests of the child or youth. After the initial permanency hearing,
314 subsequent permanency hearings shall be held not less frequently than
315 every twelve months while the child or youth remains in the custody
316 of the Commissioner of Children and Families. The court shall provide
317 notice to the child or youth, and the parent or guardian of such child or
318 youth of the time and place of the court hearing on any such motion
319 not less than fourteen days prior to such hearing.

320 (2) At a permanency hearing held in accordance with the provisions
321 of subdivision (1) of this subsection, the court shall approve a
322 permanency plan that is in the best interests of the child or youth and
323 takes into consideration the child's or youth's need for permanency.
324 The child's or youth's health and safety shall be of paramount concern
325 in formulating such plan. Such permanency plan may include the goal
326 of (A) revocation of commitment and reunification of the child or

327 youth with the parent or guardian, with or without protective
328 supervision; (B) transfer of guardianship; (C) long-term foster care
329 with a grandparent or other relative licensed as a foster parent or
330 certified as a relative caregiver; (D) adoption and filing of termination
331 of parental rights; or (E) such other planned permanent living
332 arrangement ordered by the court, provided the Commissioner of
333 Children and Families has documented a compelling reason why it
334 would not be in the best interest of the child or youth for the
335 permanency plan to include the goals in subparagraphs (A) to (D),
336 inclusive, of this subdivision. Such other planned permanent living
337 arrangement may include, but not be limited to, placement of a child
338 or youth in an independent living program or long term foster care
339 with an identified foster parent.

340 (3) At a permanency hearing held in accordance with the provisions
341 of subdivision (1) of this subsection, the court shall review the status of
342 the child, the progress being made to implement the permanency plan,
343 determine a timetable for attaining the permanency plan, determine
344 the services to be provided to the parent if the court approves a
345 permanency plan of reunification and the timetable for such services,
346 and determine whether the commissioner has made reasonable efforts
347 to achieve the permanency plan. The court may revoke commitment if
348 a cause for commitment no longer exists and it is in the best interests of
349 the child or youth.

350 (4) If the court approves the permanency plan of adoption: (A) The
351 Commissioner of Children and Families shall file a petition for
352 termination of parental rights not later than sixty days after such
353 approval if such petition has not previously been filed; (B) the
354 commissioner may conduct a thorough adoption assessment and
355 child-specific recruitment; and (C) the court may order that the child
356 be photo-listed within thirty days if the court determines that such
357 photo-listing is in the best interest of the child. As used in this
358 subdivision, "thorough adoption assessment" means conducting and
359 documenting face-to-face interviews with the child, foster care
360 providers and other significant parties and "child specific recruitment"

361 means recruiting an adoptive placement targeted to meet the
362 individual needs of the specific child, including, but not limited to, use
363 of the media, use of photo-listing services and any other in-state or
364 out-of-state resources that may be used to meet the specific needs of
365 the child, unless there are extenuating circumstances that indicate that
366 such efforts are not in the best interest of the child.

367 (l) The Commissioner of Children and Families shall pay directly to
368 the person or persons furnishing goods or services determined by said
369 commissioner to be necessary for the care and maintenance of such
370 child or youth the reasonable expense thereof, payment to be made at
371 intervals determined by said commissioner; and the Comptroller shall
372 draw his or her order on the Treasurer, from time to time, for such part
373 of the appropriation for care of committed children or youths as may
374 be needed in order to enable the commissioner to make such
375 payments. The commissioner shall include in the department's annual
376 budget a sum estimated to be sufficient to carry out the provisions of
377 this section. Notwithstanding that any such child or youth has income
378 or estate, the commissioner may pay the cost of care and maintenance
379 of such child or youth. The commissioner may bill to and collect from
380 the person in charge of the estate of any child or youth aided under
381 this chapter, or the payee of such child's or youth's income, the total
382 amount expended for care of such child or youth or such portion
383 thereof as any such estate or payee is able to reimburse, provided the
384 commissioner shall not collect from such estate or payee any
385 reimbursement for the cost of care or other expenditures made on
386 behalf of such child or youth from (1) the proceeds of any cause of
387 action received by such child or youth; (2) any lottery proceeds due to
388 such child or youth; (3) any inheritance due to such child or youth; (4)
389 any payment due to such child or youth from a trust other than a trust
390 created pursuant to 42 USC 1396p, as amended from time to time; or
391 (5) the decedent estate of such child or youth.

392 (m) The commissioner, a parent or the child's attorney may file a
393 motion to revoke a commitment, and, upon finding that cause for
394 commitment no longer exists, and that such revocation is in the best

395 interests of such child or youth, the court may revoke the commitment
396 of such child or youth. No such motion shall be filed more often than
397 once every six months.

398 (n) Upon service on the parent, guardian or other person having
399 control of the child or youth of any order issued by the court pursuant
400 to the provisions of subsections (b) and (j) of this section, the child or
401 youth concerned shall be surrendered to the person serving the order
402 who shall forthwith deliver the child or youth to the person, agency,
403 department or institution awarded custody in the order. Upon refusal
404 of the parent, guardian or other person having control of the child or
405 youth to surrender the child or youth as provided in the order, the
406 court may cause a warrant to be issued charging the parent, guardian
407 or other person having control of the child or youth with contempt of
408 court. If the person arrested is found in contempt of court, the court
409 may order such person confined until the person complies with the
410 order, but for not more than six months, or may fine such person not
411 more than five hundred dollars, or both.

412 (o) A foster parent, prospective adoptive parent or relative caregiver
413 shall receive notice and have the right to be heard for the purposes of
414 this section in Superior Court in any proceeding concerning a foster
415 child living with such foster parent, prospective adoptive parent or
416 relative caregiver. A foster parent, prospective adoptive parent or
417 relative caregiver who has cared for a child or youth shall have the
418 right to be heard and comment on the best interests of such child or
419 youth in any proceeding under this section which is brought not more
420 than one year after the last day the foster parent, prospective adoptive
421 parent or relative caregiver provided such care.

422 (p) Upon motion of any sibling of any child committed to the
423 Department of Children and Families pursuant to this section, such
424 sibling shall have the right to be heard concerning visitation with, and
425 placement of, any such child. In awarding any visitation or modifying
426 any placement, the court shall be guided by the best interests of all
427 siblings affected by such determination.

428 (q) The provisions of section 17a-152, regarding placement of a child
429 from another state, and section 17a-175, regarding the Interstate
430 Compact on the Placement of Children, shall apply to placements
431 pursuant to this section.

432 Sec. 6. Section 45a-607 of the 2008 supplement to the general statutes
433 is repealed and the following is substituted in lieu thereof (*Effective*
434 *October 1, 2008*):

435 (a) (1) When application has been made for the removal of one or
436 both parents as guardians or of any other guardian of the person of a
437 minor child, or when an application has been made for the termination
438 of the parental rights of any parties who may have parental rights with
439 regard to any minor child, or when, in any proceeding the court has
440 reasonable grounds to believe that any minor child has no guardian of
441 his or her person, the court of probate in which the proceeding is
442 pending may issue an order awarding temporary custody of the minor
443 child to a person other than the parent or guardian, with or without
444 the parent's or guardian's consent, but such order may only be issued
445 in accordance with the provisions of this section.

446 (2) In any proceeding under this section, any grandparent or other
447 relative of the minor child may make a motion to intervene and the
448 court shall grant such motion except for good cause shown. Upon the
449 granting of such motion, such grandparent or other relative may
450 appear by counsel or in person. In any proceeding in which a
451 grandparent or other relative intervenes, there shall be a rebuttable
452 presumption that placement with such grandparent or other relative is
453 in the best interests of such child or youth. This presumption may be
454 rebutted by clear and convincing evidence that such placement is not
455 in the best interests of such child or youth. As used in this subdivision
456 and subsections (b) and (d) of this section, "relative" means a person
457 related to the child by blood or marriage.

458 (b) In the case of a minor child in the custody of the parent or other
459 guardian, no application for custody of such minor child may be

460 granted ex parte, except in accordance with subdivision (2) of this
461 subsection. In the case of a minor child in the custody of a person other
462 than the parent or guardian, no application for custody may be
463 granted ex parte, except in accordance with subdivisions (1) to (3),
464 inclusive, of this subsection.

465 (1) An application for immediate temporary custody shall be
466 accompanied by an affidavit made by the custodian of such minor
467 child under penalty of false statement, stating the circumstances under
468 which such custody was obtained, the length of time the affiant has
469 had custody and specific facts which would justify the conclusion that
470 determination cannot await the hearing required by subsection (c) of
471 this section. Upon such application, the court may grant immediate
472 temporary custody to the affiant, a grandparent or other relative, or
473 some other suitable person if the court finds that: (A) The minor child
474 was not taken or kept from the parent, parents or guardian, and (B)
475 there is a substantial likelihood that the minor child will be removed
476 from the jurisdiction prior to a hearing under subsection (c) of this
477 section, or (C) to return the minor child to the parent, parents or
478 guardian would place the minor child in circumstances which would
479 result in serious physical illness or injury, or the threat thereof, or
480 imminent physical danger prior to a hearing under subsection (c) of
481 this section.

482 (2) In the case of a minor child who is hospitalized as a result of
483 serious physical illness or serious physical injury, an application for
484 immediate temporary custody shall contain a certificate signed by two
485 physicians licensed to practice medicine in this state stating that (A)
486 the minor child is in need of immediate medical or surgical treatment,
487 the delay of which would be life threatening, (B) the parent, parents or
488 guardian of the minor child refuses or is unable to consent to such
489 treatment, and (C) determination of the need for temporary custody
490 cannot await notice of hearing. Upon such application, the court may
491 grant immediate temporary custody to a grandparent or other relative
492 or some other suitable person if it finds that (i) a minor child has
493 suffered from serious physical illness or serious physical injury and is

494 in need of immediate medical or surgical treatment, (ii) the parent,
495 parents or guardian refuses to consent to such treatment, and (iii) to
496 delay such treatment would be life threatening.

497 (3) If an order of temporary custody is issued ex parte, notice of the
498 hearing required by subsection (c) of this section shall be given
499 promptly, and the hearing shall be held [within] no later than five
500 business days [of] after the date of such ex parte order of temporary
501 custody, provided the respondent shall be entitled to continuance
502 upon request. Upon the issuance of an order granting temporary
503 custody of the minor child to the Commissioner of Children and
504 Families, or not later than sixty days after the issuance of such order,
505 the court shall make a determination whether the Department of
506 Children and Families made reasonable efforts to keep the minor child
507 with his or her parent, parents or guardian prior to the issuance of
508 such order and, if such efforts were not made, whether such
509 reasonable efforts were not possible, taking into consideration the
510 minor child's best interests, including the minor child's health and
511 safety. Upon issuance of an ex parte order of temporary custody, the
512 court shall promptly notify the Commissioner of Children and
513 Families, who shall cause an investigation to be made forthwith, in
514 accordance with section 17a-101g, and shall present the commissioner's
515 report to the court at the hearing on the application for temporary
516 custody. The hearing on an ex parte order of temporary custody shall
517 not be postponed, except with the consent of the respondent, or, if
518 notice cannot be given as required by this section, a postponement
519 may be ordered by the court for the purpose of a further order of
520 notice.

521 (c) Except as provided in subsection (b) of this section, upon receipt
522 of an application for temporary custody under this section, the court
523 shall promptly set the time and place for a hearing to be held on such
524 application. The court shall order notice of the hearing on temporary
525 custody to be given, at least five days prior to the date of the hearing,
526 to the Commissioner of Children and Families by first class mail and to
527 both parents and to the minor child, if over twelve years of age, by

528 personal service or service at the parent's usual place of abode or the
529 minor's usual place of abode, as the case may be, in accordance with
530 section 52-50, except that in lieu of personal service on, or service at the
531 usual place of abode of, a parent or the father of a minor child born out
532 of wedlock who is either an applicant or who signs under penalty of
533 false statement a written waiver of such service on a form provided by
534 the Probate Court Administrator, the court may order notice to be
535 given by first class mail at least five days prior to the date of the
536 hearing. If the whereabouts of the parents are unknown, or if such
537 delivery cannot reasonably be effected, then notice shall be ordered to
538 be given by publication. Such notice may be combined with the notice
539 under section 45a-609 of the 2008 supplement to the general statutes or
540 with the notice required under section 45a-716 of the 2008 supplement
541 to the general statutes. If the parents are not residents of the state or
542 are absent from the state, the court shall order notice to be given by
543 first class mail at least five days prior to the date of the hearing. If the
544 whereabouts of the parents are unknown, or if delivery cannot
545 reasonably be effected, the court may order notice to be given by
546 publication. Any notice by publication under this subsection shall be in
547 a newspaper which has a circulation at the last-known place of
548 residence of the parents. In either case, such notice shall be given at
549 least five days prior to the date of the hearing, except in the case of
550 notice of a hearing on immediate temporary custody under subsection
551 (b) of this section. If the applicant alleges that the whereabouts of a
552 respondent are unknown, such allegation shall be made under penalty
553 of false statement and shall also state the last-known address of the
554 respondent and the efforts which have been made by the applicant to
555 obtain a current address. The applicant shall have the burden of
556 ascertaining the names and addresses of all parties in interest and of
557 proving to the satisfaction of the court that the applicant used all
558 proper diligence to discover such names and addresses. Except in the
559 case of newspaper notice, such notice shall include: (1) The time and
560 place of the hearing, (2) a copy of the application for removal or
561 application for termination of parental rights, (3) a copy of the motion
562 for temporary custody, (4) any affidavit or verified petition filed with

563 the motion for temporary custody, (5) any other documents filed by
564 the applicant, (6) any other orders or notices made by the court of
565 probate, and (7) any request for investigation by the Department of
566 Children and Families or any other person or agency. Such notice shall
567 also inform the respondent of the right to have an attorney represent
568 the respondent and, if the respondent is unable to obtain or pay for an
569 attorney, the respondent may request the court of probate to appoint
570 an attorney to represent the respondent. Newspaper notice shall
571 include such facts as the court may direct.

572 (d) If, after hearing, the court finds by a fair preponderance of the
573 evidence (1) that the parent or other guardian has performed acts of
574 omission or commission as set forth in section 45a-610, and (2) that,
575 because of such acts, the minor child is suffering from serious physical
576 illness or serious physical injury, or the immediate threat thereof, or is
577 in immediate physical danger, so as to require that temporary custody
578 be granted, the court may order the custody of the minor child to be
579 given to one of the following, taking into consideration the standards
580 set forth in section 45a-617, as amended by this act, and subsection (a)
581 of this section: (A) The grandparent or other relative of such minor
582 child; (B) the Commissioner of Children and Families; [(B)] (C) the
583 board of managers of any child-caring institution or organization; [(C)]
584 (D) any children's home or similar institution licensed or approved by
585 the Commissioner of Children and Families; or [(D)] (E) any other
586 person. The fact that an order of temporary custody may have been
587 issued ex parte under subsection (b) of this section shall be of no
588 weight in a hearing held under this subsection. The burden of proof
589 shall remain upon the applicant to establish the applicant's case. [The
590 court may issue the order without taking into consideration the
591 standards set forth in this section and section 45a-610 if the parent or
592 other guardian consents to the temporary removal of the minor child,
593 or the court finds that the minor child has no guardian of his or her
594 person.] Upon the issuance of an order giving custody of the minor
595 child to the Commissioner of Children and Families, or not later than
596 sixty days after the issuance of such order, the court shall make a

597 determination whether the Department of Children and Families made
598 reasonable efforts to keep the minor child with his or her parent,
599 parents or guardian prior to the issuance of such order and, if such
600 efforts were not made, whether such reasonable efforts were not
601 possible, taking into consideration the minor child's best interests,
602 including the minor child's health and safety.

603 (e) Such order for temporary custody shall be effective until
604 disposition of the application for removal of parents or guardians as
605 guardian or for termination of parental rights or until a guardian is
606 appointed for a minor child who has no guardian, unless modified or
607 terminated by the court of probate. Any respondent, temporary
608 custodian or attorney for the minor child may petition the court of
609 probate issuing such order at any time for modification or revocation
610 thereof, and such court shall set a hearing upon receipt of such petition
611 in the same manner as subsection (c) of this section. If the court finds
612 after such hearing that the conditions upon which it based its order for
613 temporary custody no longer exist, and that the conditions set forth in
614 subsection (b) of this section do not exist, then the order shall be
615 revoked and the minor child shall be returned to the custody of the
616 parent or guardian.

617 (f) A copy of any order issued under this section shall be mailed
618 immediately to the last known address of the parent or other guardian
619 from whose custody the minor child has been removed.

620 Sec. 7. Section 45a-617 of the general statutes is repealed and the
621 following is substituted in lieu thereof (*Effective October 1, 2008*):

622 When appointing a guardian or coguardians of the person of a
623 minor, the court shall take into consideration the following factors: (1)
624 The ability of the prospective guardian or coguardians to meet, on a
625 continuing day to day basis, the physical, emotional, moral and
626 educational needs of the minor; (2) the minor's wishes, if he or she is
627 over the age of twelve or is of sufficient maturity and capable of
628 forming an intelligent preference; (3) the existence or nonexistence of

629 an established relationship between the minor and the prospective
 630 guardian or coguardians; and (4) the best interests of the child. There
 631 shall be a rebuttable presumption that appointment of a grandparent
 632 or other relative related by blood or marriage as a guardian is in the
 633 best interests of the minor child.

634 Sec. 8. Subsection (a) of section 17a-11 of the 2008 supplement to the
 635 general statutes is repealed and the following is substituted in lieu
 636 thereof (*Effective October 1, 2008*):

637 (a) The commissioner may, in the commissioner's discretion, admit
 638 to the department on a voluntary basis any child or youth who, in the
 639 commissioner's opinion, could benefit from any of the services offered
 640 or administered by, or under contract with, or otherwise available to,
 641 the department. Application for voluntary admission shall be made in
 642 writing by the parent or guardian of a child under fourteen years of
 643 age or by such person himself or herself if he or she is a child fourteen
 644 years of age or older or a youth. The fact that a parent has applied for
 645 services or received services for his or her child through voluntary
 646 admission shall not be used against the parent (1) in any investigation
 647 conducted by the department in accordance with section 17a-101g, (2)
 648 when making placement decisions for the child, (3) when making
 649 foster care licensing determinations in accordance with section 17a-
 650 114, or (4) in any court proceeding related to the placement of a minor
 651 relative of the parent.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	New section
Sec. 2	<i>October 1, 2008</i>	New section
Sec. 3	<i>October 1, 2008</i>	17a-28(b)
Sec. 4	<i>October 1, 2008</i>	4-61dd(b)(1)
Sec. 5	<i>October 1, 2008</i>	46b-129
Sec. 6	<i>October 1, 2008</i>	45a-607
Sec. 7	<i>October 1, 2008</i>	45a-617
Sec. 8	<i>October 1, 2008</i>	17a-11(a)

HS *Joint Favorable Subst.*